IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY NINETH DAY OF JULY
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.V.S.RAO

WRIT PETITION NO : 2386 of 1999

Between:

Kusuma Vidyavathi, W/o.Chandrarao,

Machavaram, Ambajipet Mandal, East Godavari Dist.

..... PETITIONER

AND

1.Government of Andhra Pradesh, Represented by its

Secretary, Revenue (Endowment) Department,

Secretariat, Hyderabad

2.District Collector, East Godavari District, Kakindad.

3.Revenue Divisional Officer-cum-Land Acquisition Officer,

Amalapuram, East Godavari District.

4.Mandal Revenue Officer, Ambajipet, East Godavari District.

5.Sri Rajarajeswara Swamy Vari Devasthanam, Machavaram,

Ambajipet Mandal, East Godavari District.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a Writ of Mandamus or any other appropriate Writ, Order or direction declaring the impugned action of the respondents in proposing to dispossess her from the land in an extent of Acs.4.46 in S.No.137/1 and Acs.3.51 in S.No.138/2 totalling to Acs.7.97 situated in Machavaram Village, Ambajipet Mandal, East Godavari District without following the due process of law as illegal, arbitrary.

Counsel for the Petitioner:MR.V.V.L.N.SARMA

Counsel for the Respondents. 1 to 4:GP FOR REVENUE

Counsel for the Respondent No.5: None appears

The Court made the following :

ORDER:

The fifth respondent herein, Sri Rajarajeswara Swamy Vari Devasthanam, Machavaram, Ambajipet Mandal, East Godavari District, owns an extent of Acs.7.79 in S.No.137/1 and 138/2. The petitioner herein claims to be cultivating tenant of the land. She alleges that respondents are contemplating to issue house site pattas in respect of the temple land. She also alleges that just prior to filing of the Writ Petition, officials of respondents 2 to 4 inspected the land and proclaimed that house site pattas will be issued. Apprehending that her rights would be jeopardized, if the land is distributed to landless poor persons, present Writ Petition is filed praying this Court for a Writ of Mandamus declaring the action of the respondents in proposing to dispossess the petitioner as illegal and arbitrary.

A counter affidavit is filed on behalf of respondents 2 to 4 stating that it was proposed to acquire the land of fifth respondent and accordingly a notification under Section 4(1) of the Land Acquisition Act, 1894 (for short, the LA Act) was issued duly invoking emergency provisions under subjection (4) of Section 17 of the LA Act, that the same was published in two daily newspapers and substance was also published in the locality on 22.2.1999. All other allegations made in the petitioner's affidavit are denied. It is also stated that house site pattas were distributed to the people below poverty line under Rural Permanent Housing Scheme and Indira Aavaas Yojana for construction of permanent houses. The allegation that there are alternate sites is also denied.

The Notification issued under Section 4(1) of the LA Act has not been specifically challenged. Indeed, having regard to Section 82 of the A.P.Charitable and Hindu Religious Institutions and Endowments Act, 1987 (for short, the

Endowments Act), lease of the petitioner stands cancelled and therefore she cannot have any grievance if the land is acquired. The learned counsel, however, submits that as a tenant petitioner is entitled to claim a part of the compensation for the land acquired. If that be so, it is open to petitioner to approach the Land Acquisition Officer claiming such compensation. In the Writ Petition, the same cannot be decided. Further, admittedly the petitioner is in possession of more than Acs.5.00 of wet land and therefore she is not entitled for any benefit under sub-section (2) of Section 82 of the Endowments Act.

In view of the above, the Writ Petition is disposed of giving liberty to petitioner to approach the Land Acquisition Officer and claim compensation. In this Writ Petition, no relief can be granted to petitioner. No costs.

_____

(V.V.S.RAO, J)

29.7.2004

bnr

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1. The Secretary, Government of Andhra Pradesh, Revenue (Endowment) Department, Secretariat, Hyderabad

2.District Collector, East Godavari District, Kakindad.

3.Revenue Divisional Officer-cum-Land Acquisition Officer,

Amalapuram, East Godavari District.

4.Mandal Revenue Officer, Ambajipet, East Godavari District.

5.Sri Rajarajeswara Swamy vari Devasthanam, Machavaram, Ambajipet Mandal, East Godavari District.

6.2 CCs to GP for Revenue, High Court Bldgs., Hyderabad (OUT)

7.2 CD copies.